

**SUPREME COURT MINUTES
THURSDAY, DECEMBER 20, 2007
SAN FRANCISCO, CALIFORNIA**

S149248 B193167 Second Appellate District, Div. 4 **M. (TONYA) v. S.C. (CHILDREN
& FAMILY SERVICES)**

Opinion filed: Judgment affirmed in full

Opinion by: Werdegar, J.

-----joined by: George, C. J., Kennard, Baxter, Chin, Moreno, and Corrigan, JJ.

S042346 **PEOPLE v. JONES (BRYAN
MAURICE)**

Extension of time granted

Good cause appearing, and based upon Senior Deputy State Public Defender Joseph E. Chabot's representation that he anticipates filing the appellant's reply brief by October 16, 2008, counsel's request for an extension of time in which to file that brief is granted to February 15, 2008. After that date, only four further extensions totaling about 240 additional days are contemplated.

S045696 **PEOPLE v. GARCIA (RANDY
EUGENE)**

Extension of time granted

Good cause appearing, and based upon Deputy Attorney General Russell A. Lehman's representation that he anticipates filing the respondent's brief by mid-March 2008, counsel's request for an extension of time in which to file that brief is granted to February 15, 2008. After that date, only one further extension totaling about 30 additional days is contemplated.

S086269 **PEOPLE v. JACKSON
(JONATHAN K.)**

Extension of time granted

Good cause appearing, and based upon counsel Gilbert Gaynor's representation that he anticipates filing the appellant's opening brief by February 28, 2008, counsel's request for an extension of time in which to file that brief is granted to February 28, 2008. After that date, no further extension is contemplated.

S089478**PEOPLE v. MAI (HUNG THANH)**

Extension of time granted

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to February 25, 2008.

S093235**PEOPLE v. JOHNSON
(JERROLD ELWIN)**

Extension of time granted

Good cause appearing, and based upon counsel William D. Farber's representation that he anticipates filing the appellant's opening brief by December 31, 2008, counsel's request for an extension of time in which to file that brief is granted to February 15, 2008. After that date, only five further extensions totaling about 320 additional days are contemplated.

S103087**PEOPLE v. POST (JOHN LEVAE)**

Extension of time granted

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to February 19, 2008.

S106274**PEOPLE v. CARO (SOCORRO
SUSAN)**

Extension of time granted

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to February 13, 2008.

S120980**MONTERROSO (CHRISTIAN
ANTONIO) ON H.C.**

Extension of time granted

Good cause appearing, and based upon counsel Jeannie R. Sternberg's representation that she anticipates filing the reply to the informal response to the petition for writ of habeas corpus by January 16, 2008, counsel's request for an extension of time in which to file that document is granted to January 16, 2008. After that date, no further extension is contemplated.

S014394**PEOPLE v. LEDESMA (FERMIN RODRIGUEZ)**

Counsel appointment order filed

The order appointing Michael G. Millman, as Executive Director of the California Appellate Project in San Francisco, to serve as interim habeas corpus/executive clemency counsel of record for condemned prisoner Fermin Rodriguez Ledesma, filed August 14, 2003, is hereby vacated. Terry J. Amdur is hereby appointed to represent condemned prisoner Fermin Rodriguez Ledesma for habeas corpus/executive clemency proceedings related to the above automatic appeal now final in this court. Any "petition for writ of habeas corpus will be presumed to be filed without substantial delay if it is filed . . . within 36 months" of this date (Supreme Ct. Policies Regarding Cases Arising From Judgments of Death, policy 3, timeliness std. 1-1.1), and it will be presumed that any successive petition filed within that period is justified or excused (see *In re Clark* (1993) 5 Cal.4th 750, 774-782), in light of prior habeas corpus/executive clemency counsel Jeffrey J. Stuetz's declaration, in support of his motion to withdraw, to the effect that he was unable to discharge his duty to investigate and, if appropriate, present a habeas corpus petition on behalf of condemned prisoner Fermin Rodriguez Ledesma, and this court's delay in appointing replacement habeas corpus/executive clemency counsel.

S084292**ROGERS (DAVID KEITH) ON H.C.**

Order filed

The order filed on December 19, 2007, is hereby amended to read in its entirety:

The Director of the Department of Corrections and Rehabilitation is ordered to show cause in this court, when the matter is placed on calendar, why the relief prayed for should not be granted on the following grounds alleged in the petition for writ of habeas corpus filed on December 14, 1999:

- 1) newly discovered evidence and use of false evidence, as alleged in claim III;
- 2) the prosecution's failure to disclose exculpatory evidence, as alleged in claim IV;
- 3 ineffective assistance of counsel, as alleged in subclaims (G), (K), (L), (M), (N), and (O) (to the extent petitioner alleges failure to request CALJIC No. 2.92) of claim V;
- 4) cumulative penalty phase prejudice arising from the facts alleged in the subclaims of claim V identified in paragraph 3) above, as alleged in subclaim (Q) of claim V; and
- 5) cumulative penalty phase prejudice arising from the facts alleged in the claims and subclaims identified in paragraphs 1) through 4) above, as alleged in claim VI. The return must be filed on or before January 18, 2008.

Kennard, Werdegar, and Moreno, JJ., would also include within the order to show cause the ground of juror misconduct on the part of juror Edward Sauer, as alleged in claim I.

S157574 G039373 Fourth Appellate District, Div. 3 **BARTH (JEFFREY) v. S.C. (BARTH)**

Order filed

Due to clerical error, the order filed on December 12, 2007, denying the petition for review is amended as to the name of respondent in the title to read; Superior Court of Orange County.”

S157396 **TORRES ON DISCIPLINE**

Recommended discipline imposed: disbarred

It is hereby ordered that FELIX TORRES, JR., State Bar No. 135480 be disbarred from the practice of law and that his name be stricken from the roll of attorneys. Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

S157398 **ZISBLATT ON DISCIPLINE**

Recommended discipline imposed

It is ordered that HOWARD BERNARD ZISBLATT, State Bar No. 122138, be suspended from the practice of law for two years and until he provides proof to the satisfaction of the State Bar Court of his rehabilitation, present fitness to practice and present learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on August 29, 2007. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and one-half of said costs be paid with membership fees for the years 2009 and 2010. It is further ordered that if respondent fails to pay any installment of disciplinary costs within the time provided herein or as may be modified by the State Bar Court pursuant to Business and Professions Code section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately unless relief has been granted under the Rules of Procedure of the State Bar of California (Rules Proc. of State Bar, rule 286). The payment of costs is enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

S157399**PROPSTER ON DISCIPLINE**

Recommended discipline imposed

It is ordered that LISA G. PROPSTER, State Bar No. 165059, be suspended from the practice of law for one year, that execution of suspension be stayed, and that she be placed on probation for two years on condition that she be actually suspended for two months. Respondent is further ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed August, 24, 2007. It is also ordered that she take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order or during the period of her actual suspension, whichever is longer. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and one-half of said costs be paid with membership fees for the years 2009 and 2010. It is further ordered that if respondent fails to pay any installment of disciplinary costs within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately unless relief has been granted under the Rules of Procedure of the State Bar of California (Rules Proc. of State Bar, rule 286). The payment of costs is enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

S157400**GONG ON DISCIPLINE**

Recommended discipline imposed

It is ordered that GLORIA MARGARET GONG, State Bar No. 163418, be suspended from the practice of law for one year, that execution of suspension be stayed, and that she be placed on probation for two years on condition that she be actually suspended for sixty days. Respondent is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed August 22, 2007. It is further ordered that she take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10, and one-half of said costs be paid with membership fees for the years 2009 and 2010. It is further ordered that if Gloria Gong fails to pay any installment of disciplinary costs within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately unless relief has been granted under the Rules of Procedure of the State Bar of California (Rules Proc. of State Bar, rule 286). The payment of costs is enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

S157417**CHAPNIK ON DISCIPLINE**

Recommended discipline imposed

It is ordered that MICHAEL CHAPNIK, State Bar No. 202659, be actually suspended from the practice of law for 90 days and until he provides proof to the satisfaction of the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct, and until he demonstrates that he has undergone a meaningful and sustained period of rehabilitation from his chemical dependency, and until he provides proof that he has attended the State Bar Ethics School and taken and passed the Ethics School test, and taken and passed the Multistate Professional Responsibility Examination, both within one year before being readmitted to active status, recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on August 21, 2007, as modified by its order filed August 30, 2007. Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

S157419**HASKETT ON DISCIPLINE**

Recommended discipline imposed

It is ordered that AMBER CAROL HASKETT, State Bar No. 194129, be suspended from the practice of law for one year, that execution of suspension be stayed, and that she be placed on probation for two years on condition that she be actually suspended for 30 days. Respondent is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed August 22, 2007. It is further ordered that she take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

S157420**MCGREW ON DISCIPLINE**

Recommended discipline imposed

It is ordered that SPENCER POSTAL MCGREW, State Bar No. 57763, be suspended from the practice of law for two years, that execution of the suspension be stayed, and that he be actually suspended from the practice of law for six months and until the State Bar Court grants a motion to terminate his actual suspension pursuant to rule 205 of the Rules of Procedure of the State Bar of California. Respondent is also ordered to comply with the conditions of probation, if any, hereinafter imposed by the State Bar Court as a condition for terminating his actual suspension. If respondent is actually suspended for two years or more, he must remain actually suspended until he provides proof to the satisfaction of the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for

Professional Misconduct. It is further ordered that respondent take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order or during the period of his actual suspension, whichever is longer. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that respondent comply with rule 9.20 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this order.* Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S159051**ORNDORFF ON RESIGNATION**

Voluntary resignation accepted

The voluntary resignation of KELLY J. ORNDORFF, State Bar No. 199971, as a member of the State Bar of California is accepted.

S159055**SILENCE ON RESIGNATION**

Voluntary resignation accepted

The voluntary resignation of JOSEPH A. SILENCE, State Bar No. 126376, as a member of the State Bar of California is accepted.

S159056**SYNCHEF ON RESIGNATION**

Voluntary resignation accepted

The voluntary resignation of RICHARD MICHAEL SYNCHEF, State Bar No. 113245, as a member of the State Bar of California is accepted.

S159061**VOORHIS ON RESIGNATION**

Voluntary resignation accepted

The voluntary resignation of ROBERT A. VOORHIS, State Bar No. 133275, as a member of the State Bar of California is accepted.